



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2003 Senate Bill 512	Senate Amendment 1
<i>Memo published: March 9, 2004</i> <i>Contact: Mary Matthias, Senior Staff Attorney (266-0932)</i>	

Current law exempts certain property from the property tax, including certain property owned and used exclusively by churches or religious, educational, or benevolent associations. [s. 70.11 (4), Stats.] Current law does not exempt any property owned by individuals from the property tax.

Current law provides that if property that is exempt from property tax is leased, the property retains its tax exemption if, among other requirements, the lessee (the person leasing the property) would be exempt from taxation under ch. 70, Stats., if it owned the property. [s. 70.11 (intro.), Stats.] This requirement is generally referred to as the “lessee identity condition.”

In *Columbus Park Housing Association v. City of Kenosha*, 2003 WI 143 (“*Columbus Park*”), a recent decision of the Wisconsin Supreme Court interpreting the statutes referenced above, the court determined that property owned by a benevolent organization that purchased blighted property, rehabilitated it, and rented it to low-income families who received federal rent subsidies was not exempt from property tax because it did not meet the “lessee identity condition.” In other words, because the low-income tenants would not be entitled to the exemption if they owned the property, the property was not entitled to the exemption when it was leased to the tenants.

Apparently, until the City of Kenosha raised the issue in *Columbus Park*, it was generally assumed that the “lessee identity condition” did not apply when property was leased to an individual and it appears that property taxes were not assessed against such property in Wisconsin.

Senate Bill 512 does the following:

1. For property tax assessments for 2002, 2003, 2004, and 2005, provides that leasing a part of any property that would otherwise be exempt from property taxes does not render the property taxable, regardless of whether the lessee would be exempt from property taxes if the lessee owned the property, if both of the following apply:

- a. The leased property is residential housing.
- b. The lessor uses all of the leasehold income for maintenance of the leased property or construction debt retirement of the leased property, or both.

2. Sunsets the exemption described above on January 1, 2006. On that date, the changes made by the bill are repealed and current law (as interpreted by the court in *Columbus Park*) is reinstated.

3. Directs the Legislative Council staff to study the effect of *Columbus Park* on property tax exemptions for property that is leased, pursuant to s. 70.11 (intro.), 2001 Stats., and as affected by the bill. The bill requires the Legislative Council staff to report its findings, conclusions, and recommendations to the Legislature no later than December 15, 2004.

Senate Amendment 1 does the following:

1. Deletes the sunset provision in the bill.
2. Makes a technical correction to the provision in the bill requiring a Legislative Council study. The bill directs the Legislative Council “staff” to study the issue. The amendment deletes “staff.” This clarifies that the bill requires a traditional Legislative Council study.

Legislative History

Senate Bill 512 was introduced on March 1, 2004 by Senators Roessler and Stepp and was referred to the Joint Survey Committee on Tax Exemptions. The Joint Survey Committee held a public hearing on the bill and issued a report on March 4, 2004, determining that the bill is good public policy. The bill was referred to the Senate Committee on Economic Development, Job Creation and Housing, which held a public hearing and executive session on the bill on March 5, 2004. The committee voted to introduce and adopt Senate Amendment 1 on a vote of Ayes, 5; Noes, 0, and recommended passage of the bill, as amended, on a vote of Ayes, 5; Noes, 0.

MM:jal